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47 *Putative Class Members*

48 **IN THE UNITED STATES DISTRICT COURT**

49 **EASTERN DISTRICT OF CALIFORNIA**

50 RAUL PIZANA, an individually and on
51 behalf of all others similarly situated,

52 Plaintiff,

53 vs.

54 SANMEDICA INTERNATIONAL, LLC, a
55 Utah Limited Liability Company, and
56 DOES, 1-10, inclusive,

57 Defendants.

58 Case No.: 18-CV-00644-DAD-SKO
59 Case Filed: 5/9/2018
60 FAC Filed: 6/30/2018
61 SAC Filed: 11/13/2019

62 *Hon. Judge Dale A. Drozd, USDJ*
63 *Hon. Sheila K. Oberto, USMJ*

64 **STIPULATION AND ORDER RE:**
65 **AMENDMENT TO PROTECTIVE**
66 **ORDER RE: CONFIDENTIAL**
67 **MATERIALS**

68 (Doc. 164)

1 Plaintiff Raul Pizana (“**Plaintiff**”) and Defendant Sanmedica International, LLC
 2 (“**Defendant**”) (collectively, the “**Parties**”) by and through their respective counsel of record, enter
 3 into the following stipulation to amend the Protective Order filed on April 10, 2020 (*Pizana* Action,
 4 ECF 76):

5 **RECITALS**

6 1. WHEREAS, on May 9, 2018, Raul Pizana, by and through Plaintiff’s counsel of
 7 record at Clarkson Law Firm, P.C. and Tycko & Zavareei, LLP, filed a putative class action against
 8 Defendant, represented by Defendant’s counsel of record at Price, Parkinson & Kerr, PLLC, as
 9 well as local counsel at Early Sullivan Wright Gizer & McRae LLP, pending in the United States
 10 District Court for the Eastern District of California, entitled *Pizana v. SanMedica International,*
 11 *LLC*, Case No. 18-CV-00644, to assert claims on behalf of Plaintiff and California consumers,
 12 regarding Defendant’s alleged false advertising of an oral amino acid dietary supplement called
 13 SeroVital that increases growth hormone, which in turn provides related anti-aging benefits (the
 14 “**Pizana Action**”);

15 2. WHEREAS, on November 13, 2019, Holly Deibler, by and through Plaintiff’s
 16 counsel of record at Clarkson Law Firm, P.C. and Tycko & Zavareei, LLP, as well as local counsel
 17 at Miller Shah LLP, filed a putative class action against Defendant, represented by Defendant’s
 18 counsel of record at Price, Parkinson & Kerr, PLLC, as well as local counsel at Newman, Simpson
 19 & Cohen, LLP, pending in the United States District Court for the District of New Jersey, entitled
 20 *Deibler v. SanMedica International, LLC*, Case No. 1:19-CV-20155, to assert claims on behalf of
 21 Ms. Deibler and New Jersey consumers, regarding Defendant’s alleged false advertising of an oral
 22 amino acid dietary supplement called SeroVital that increases growth hormone, which in turn
 23 provides related anti-aging benefits (the “**Deibler Action**”);

24 3. WHEREAS, the Protective Order entered in the *Pizana* Action on April 10, 2020
 25 (*Pizana* Action, ECF 76) governs the permissible use and disclosure of materials designated as
 26 confidential and, among other things, prohibits its use for any purpose other than the prosecution,
 27 defense, appeal or settlement of the *Pizana* Action (*id.* at ¶ 3) (hereinafter the “**Pizana Protective**
 28 **Order**”);

1 4. WHEREAS, the Discovery Confidentiality Order entered in the *Deibler* Action on
 2 November 4, 2020 (*Deibler* Action, ECF 47) governs the permissible use and disclosure of
 3 materials designated as confidential and, among other things, prohibits its use for any purpose other
 4 than the prosecution or defense of the *Deibler* Action (*id.* at ¶ 3) (hereinafter the “***Deibler***
 5 **Discovery Confidentiality Order**”);

6 5. WHEREAS, the parties in the *Pizana* Action and the *Deibler* Action have met and
 7 conferred through counsel of record at Clarkson Law Firm, P.C. and Tycko & Zavareei, LLP for
 8 the plaintiffs, and Price Parkinson & Kerr, PLLC for Defendant, on March 31, 2021, April 9, 2021,
 9 April 14, 2021, and April 16, 2021, among other dates, regarding reducing litigation costs and
 10 attorney-hours through the avoidance of unnecessary duplication of discovery by using discovery
 11 taken in the *Pizana* Action as though it were taken in the *Deibler* Action, and vice versa, to the
 12 same extent as it would be so usable had it been taken in the either of the actions, including the use
 13 of materials marked confidential under the terms of the *Pizana* Protective Order or the *Deibler*
 14 Discovery Confidentiality Order;

15 6. WHEREAS, the parties in the *Pizana* Action and the *Deibler* Action, by and through
 16 their respective counsel, have agreed to use in the *Deibler* Action Defendant’s Rule 30(b)(6)
 17 depositions¹ taken in the *Pizana* Action, which may have been marked as “confidential” or
 18 “attorneys eyes only” (*see Deibler* Action, Order 4/19/2021, ECF 81, at ¶ 4 (“The parties have
 19 represented that the deposition testimony of the Fed. R. Civ. P. 30(b)(6) witnesses in the *Pizana*
 20 matter shall be used in this case by consent.”)); and

21 7. WHEREAS, amendments to the *Pizana* Protective Order are necessary to permit
 22 the use of Defendant’s Rule 30(b)(6) depositions designated as “confidential” and/or “attorneys’
 23 eyes only” in the *Deibler* Action, and the potential unsealing of those documents by the court
 24 therein, without potentially violating the terms of the *Pizana* Protective Order (*see Deibler* Action,
 25 Order 8/6/2021, ECF 120, at ¶ 1);

26
 27 1 To date, said depositions include Alexis Timpson (9/8/2020), Matthew Draper (9/9/2020), Brad
 28 Skinner (9/10/2020), James Kreeck, Vol. 1 (9/14/2020), Evan Strassberg (9/25/2020), Amy Heaton
 (11/17/2020), Brokk Mowrey (11/18/2020), Gina Daines, Vol. 1 (11/19/2020), Gina Daines, Vol.
 2 (11/30/2020), James Kreeck, Vol. 2 (12/8/2020), and Gina Daines, Vol. 3 (2/11/2020).

STIPULATION

8. THEREFORE, the parties hereby further stipulate and agree:

i. Paragraph three (3) in the *Pizana* Protective Order shall be amended to read:

Confidential Information shall not be used or disclosed for any purpose other than the prosecution, defense, appeal or settlement of this action and the related action entitled *Deibler v. SanMedica International, LLC*, Case No. 1:19-CV-20155, presently pending before the United States District Court for the District of New Jersey. Any use of such information for any other purpose, or any disclosure of such information to anyone not authorized under this Protective Order, is expressly prohibited and would constitute a material breach of this Order.

- ii. Explicit references to the *Pizana* Action, judge, and/or court in the *Pizana* Protective Order, including the use of pronouns such as “this action,” “this litigation”, “the Court,” the “Eastern District of California,” and similar terms intended to refer to the matter and the presiding judge or court, shall be amended and read to include both the *Pizana* Action and the *Deibler* Action, and their respective judges, courts, and the jurisdictions of the Eastern District of California and District of New Jersey for the United States District Court;

iii. The *Pizana* Protective Order shall be amended and read to permit the use of materials marked as “confidential” or “attorneys’ eyes only” for the purpose of prosecuting or defending the *Pizana* Action and/or *Deibler* Action, in their entirety, including any settlement or appeals, without violating the *Pizana* Protective Order;

iv. The *Pizana* Protective Order shall be amended and read to permit the courts in the *Pizana* Action and *Deibler* Action to issue rulings regarding the confidentiality and sealing of materials marked as “confidential” or “attorneys’ eyes only” under the terms of the *Pizana* Protective Order, pursuant to the procedural rules governing the respective actions, including L.R. 141 and 14.1 of the United States District Court for the Eastern District of California and L. Civ. R. 5-3 of the United States District Court for the

1 District of New Jersey governing motions to seal and confidentiality, if said
2 issues are brought before the court in either action for adjudication; and

3 v. Any court rulings rendered with respect to the confidentiality and/or sealing
4 of materials marked as “confidential” or “attorneys’ eyes only” shall be
5 binding only in the action in which the ruling was rendered.

6 **IT IS SO STIPULATED.**

7 Respectfully submitted,

8 Dated: August 16, 2021

/s/ *Katherine A. Bruce*

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23 Dated: August 16, 2021

/s/ *Jason M. Kerr*

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ORDER

Based on the Parties' above stipulation (Doc. 164), and for good cause shown, IT IS HEREBY ORDERED that the Protective Order in this action (the "*Pizana* Protective Order") (Doc. 76) is amended consistent with the Parties' stipulation to permit, without violating the terms of the *Pizana* Protective Order: (i) the use of materials marked as "confidential" or "attorneys' eyes only" for the purpose of prosecuting or defending this action and the *Deibler* Action, entitled *Deibler v. SanMedica International, LLC*, United States District Court for the District of New Jersey Case No. 1:19-CV-20155, in their entirety, including any settlement or appeals; and (ii) the courts presiding over this action and the *Deibler* Action to rule upon issues brought before them regarding the confidentiality and sealing of said materials pursuant to the procedural rules governing the respective courts, and said rulings shall be binding only in the action in which the ruling was rendered.

IT IS SO ORDERED.

Dated: **August 18, 2021**

/s/ Sheila K. Oberto

UNITED STATES MAGISTRATE JUDGE